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Government of Kerala

1975

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XX] Trivandrum, Saturday, 2nd August 1975 / 11th Sravana 1897 [No. 434

GOVERNMENT OF KERALA

Public Works (Transport-B) Department

NOTIFICATION

No. 20301/TB2/75/PW. *Dated, Trivandrum, 29th July 1975.*

Whereas in exercise of the powers conferred by clause (1) of Article 258 of the Constitution, the President has, in Notification No. 2/4/63/Judl. II dated 31-5-1963 entrusted the Government of Kerala with their consent the functions of the Central Government, under the Kerala Land Acquisition Act, 1961 (Act 21 of 1962), in relation to the acquisition of land for the purposes of the Union in the Kerala State;

And whereas it appears to the Government of Kerala that the lands specified in the Schedule below is needed or is likely to be needed for a public purpose to wit, for Yard arrangements in connection with the conversion of Ernakulam Trivandrum Metre gauge line into Broad Gauge in Vanchiyoor village. Notice to that effect is hereby given to all whom it may concern in accordance with the provisions of Section 3 (1) of the said Act.

Under sub-section (4) of section 19 of the said Act, the Government direct that in view of the urgency of the case, the provisions of section 5 of the Act shall not apply to this case.

ഭരണഘടനേ 258-ാം വകുപ്പ് (1)-ാം ഖണ്ഡത്താൽ നൽകപ്പെട്ട അധികാരം വിനിയോഗിച്ച് രാഷ്ട്രപതി യൂണിയന്റെ ആവശ്യങ്ങൾക്കായി കേരള സംസ്ഥാനത്ത് ഭൂമി വിലയ്ക്കെടുക്കുന്നതു സംബന്ധിച്ചിടത്തോളം 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്ട് (1962-ലെ 21-ാം ആക്ട്) പ്രകാരം കേന്ദ്ര ഗവൺമെന്റിന്റെ പ്രവൃത്തികളും തന്റെ 31-5-1963-ാം തീയതിയിലെ 2/4/63/ജുഡീഷ്യൽ II-ാം നമ്പർ പരസ്യപ്രകാരം കേരള ഗവൺമെന്റിനെ ആ ഗവൺമെന്റിന്റെ സമ്മതത്തോടുകൂടി ഭരമേൽപ്പിച്ചിരിക്കയാലും;

താഴെ കാണിച്ചിരിക്കുന്ന പട്ടികയിൽ വിവരിച്ചിട്ടുള്ള ഭൂമി ഒരു പൊതുകാര്യത്തിന്, അതായത് എറണാകുളം, തിരുവനന്തപുരം മീറ്റർഗേജ് റയിൽവേ ലൈൻ ബ്രോഡ്ഗേജ്ലൈൻ ആക്കി മാററുമ്പോൾ സ്റേറഷൻ യാർഡ് വിപുലീകരിക്കുന്നതിന് വഞ്ചിയൂർ വില്ലേജ് ആവശ്യമുണ്ടെന്നോ, ആവശ്യമുണ്ടാകാനിടയുണ്ടെന്നോ കേരള ഗവൺമെന്റിന് ബോദ്ധ്യമായിരിക്കയാലും അതിനുള്ള നോട്ടീസ് അതു സംബന്ധിക്കുന്ന എല്ലാവർക്കും മേപ്പടി ആക്ററ് 3(1) എന്ന വകുപ്പിലെ വ്യവസ്ഥകളനുസരിച്ച് ഇതിനാൽ നൽകിയിരിക്കുന്നു.

ടി ആക്ററ് 17 (4) എന്ന വകുപ്പുപ്രകാരം സംഗതിയുടെ അടിയന്തിരാവസ്ഥ പരിഗണിച്ച് പ്രസ്തുത ആക്ററ് 5-ാം വകുപ്പിലെ വ്യവസ്ഥകൾ ഈ സംഗതിയിൽ ബാധകമല്ലെന്നും ഗവൺമെന്റ് ഇതിനാൽ നിർദ്ദേശിച്ചിരിക്കുന്നു.

SCHEDULE

District.—Trivandrum.

Taluk.—Trivandrum. *Village.*—Vanchiyoor.

(The extent given is approximate)

Serial No.	*Survey No.*	*Description*	*Extent* A.	Sq. m.
1	1038/Part	Dry	02	02
2	1046/Part	do.	10	11

By order of the Governor,

P. MADHAVAN NAIR,
Joint Secretary to Government.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1975.

Government of Kerala
1975

Reg. No. KL/TV/12.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXI Trivandrum, Saturday, 2nd August 1975 / 11th Sravana 1897 [No. 429

GOVERNMENT OF KERALA

Water and Power (General and Planning) Department

NOTIFICATIONS

1

No. 19477/P2/73/W&P. *Dated, Trivandrum, 1st August, 1975.*

In exercise of the powers conferred by sections 7, 66 (ii), 66 (ix), 67 (2) (d) and 68 (2) (c) of the Travancore Public Canals and Public Ferries Act, 1096 (VI of 1096), the Government of Kerala hereby make the following amendments to the Travancore Public Canals and Public Ferries Rules, 1100 M. E., namely:—

AMENDMENTS

In the said Rules,—

1. In rule 112-A, for the letters and figure "Rs. 2", the letters and figure "Rs. 5" shall be substituted;

2. In rule 112-B, for the letters and figure "Rs. 2", the letters and figure "Rs. 5", shall be substituted;

33/2694/MC.

3. In Form (O)—vide rule 112 A, for the letters, figure, words and brackets "Rs. 2 (Rupees two)", the letters, figure, words and brackets "Rs. 5 (Rupees five)" shall be substituted;

4. In rule 116, for the letters, figures, word and brackets "Rs. 10 (Ten)", the letters, figures, word and brackets "Rs. 15 (Fifteen)", shall be substituted;

5. In rule 121, for the letters, figure, word and brackets "Rs. 7 (Seven)" and for the letters, figure, word and brackets "Rs, 5 (Five)", the letters, figures, word and brackets "Rs. 12 (Twelve)" shall be substituted;

6. In rule 122-B, for the letters, figure, word and brackets "Rs. 2 (two)", the letters, figure, word and brackets "Rs. 6 (six)" shall be substituted;

7. In Appendix A, under the heading "Fees for grant of licences", for items 1 to 8 the following shall be substituted, namely:—

		Rs.
"1	(a) Steam or motor boat, per ton of registered tonnage	16.00
	(b) Vallans used and owned by Navikathozhilali per ton of registered tonnage	1.00
2.	Other vessels per ton of registered tonnage	2.00
3.	Rafts of timber and bamboos per 100 square feet or fraction thereof	1.00
4.	Rafts of bamboos per 100 square feet or fraction thereof	0.50
5.	Copy of licence or registration certificate if the original is lost or if the expired licence or registration certificate is not produced on renewal	2.00
6.	First copy of the crew certificate	10.00
7.	Subsequent copy of the crew certificate	15.00
8.	Copies of D1 and D2 certificates each (Penalty)	2.00";

8. In Appendix B, under the heading "Registration Fees", for items 1 to 4, the following shall be substituted, namely:—

		Rs.
"1.	Vessels other than steam or motor boats intended for personal use.	4.00
2.	Steam or motor boats intended for personal use	80.00
3.	Annual renewal of registration of vessels other than steam or motor boats intended for personal use	4.00
4.	Annual renewal of the registration certificates of the steam and motor boats intended for personal use	80.00";

9. In Appendix C, under the heading "Fees for the grant of Inspection Certificate to Steam Vessels", for items 1 to 7 and the note below them, the following shall be substituted, namely:—

		Rs. Ps.
"1.	For vessels of less than 10 tons	25.00
2.	For vessels of 10 tons and above upto 25 tons	30.00
3.	For vessels of 25 tons and above upto 50 tons	40.00
4.	For vessels of 50 tons and above	50.00
5.	For vessels of 100 tons and upto 200 tons	80.00
6.	For vessels of 200 tons and upto 400 tons	100.00
7.	For vessels of 400 tons and upto 800 tons	120.00

N.B.—For special inspection i.e. first inspection of vessel and inspection conducted after expiry of the validity of last certificate issued for a vessel, double the rate prescribed above.";

10. In Appendix D, under the heading "Fees for the renewal of competency certificates", for items 1 to 5, the following shall be substituted, namely:—

		Rs.
"1.	Fees for the renewal of Master's, Engine driver's or Syrang's certificate	9.00
2.	Fees for the renewal of a Lascar's competency certificate	3.00
3.	Fees for the renewal of Master's, Engine Driver's, or Syrang's certificate which has lapsed	11.00
4.	Fees for the renewal of a lascar's certificates which has lapsed	5.00
5.	Fees for the issue of probationery Licence	5.00";

These amendments shall come into force from 1st October, 1975.

II

No. 19477/P2/73/W&P. *Dated, Trivandrum 1st August* 1975.

In exercise of the powers conferred by sections 5 and 9 of the Cochin Public Canals and Back Waters Navigation Act, 1092 (Act 1 of 1092), the

Government of Kerala hereby make the following amendments to the Cochin Public Canals and Back Waters Navigation Rules, namely:—

AMENDMENTS

In the said Rules,—

1. In rule 17, for the words "one rupee", the words "two rupees" shall be substituted;

2. In rule 43 (a), for the words "one rupee", the words "two rupees" shall be substituted;

3. In rule 67 (b), for the letters and figure "Rs. 2", the letters and figure "Rs. 5" shall be substituted;

4. In rule 67 (2), for the letters and figure "Rs. 2", the letters and figure "Rs. 5" shall be substituted;

5. In rule 71, for the words "Rupees ten", the words "Rupees fifteen" shall be substituted;

6. In rule 73, for the letters and figure "Re. 1", the letters and figure "Rs. 2" shall be substituted;

7. In rule 76, for the words "Rupees seven" and for the words "Rupees five", the words "Rupees twelve" shall be substituted;

8. In rule 77 (B), for the letters and figure "Rs. 2", the letters and figure "Rs. 6" shall be substituted;

9. In the Appendix,—

(1) under the heading " (a) Fees for grant of Licences", for items 1 to 4, the following shall be substituted, namely:—

		Rs. Ps.
"1 (a)	Steam or motor boat per ton of registered tonnage	16.00
(b)	Vallams used and owned by Navikathozhilalies per ton of registered tonnage	1.00
2.	other vessels per ton of registered tonnage	2.00
3.	Rafts of timber or of timber and bamboos per 100 sq. feet or fraction thereof	1.00
4.	Rafts of bamboo or bamboos and areacanut trees per 100 sq. feet or fraction thereof	0.50";

(2) under the heading "(b) Registration Fees", for items 1 to 4, the following shall be substituted, namely:—

"1.	Steam or motor vessels for personal use	80.00
2.	Other vessels	4.00
3.	Annual renewal of the Registration Certificates of vessels other than steam or motor boats intended for personal use	4.00
4.	Annual renewal of Registration Certificates of steam or motor boats intended for personal use	80.00";

(3) under the heading "(c) Fees for the Grant of inspection certificates to steam or motor boats", for items 1 to 7 and the note below them, the following shall be substituted, namely:—

"1.	For vessels of less than 10 tons	25.00
2.	For vessels of 10 tons and upto 25 tons	30.00
3.	For vessels of 25 tons and upto 50 tons	40.00
4.	For vessels of 50 tons and upto 100 tons	50.00
5.	For vessels of 100 tons and upto 200 tons	80.00
6.	For vessels of 200 tons and upto 400 tons	100.00
7.	For vessels of 400 tons and upto 800 tons	120.00

N. B.— For special inspection (i. e.) first inspection of vessel and inspection conducted after expiry of the validity of the last certificate issued for a vessel, double the rates prescribed above.";

(4) under the heading "(d) Fees for the renewal of competency certificates", for items 1 to 4 and the note below them, the following shall be substituted, namely:—

		Rs. Ps.
"1.	Fees for the renewal of Master's Engine Drivers or Syrang's Certificate	9.00
2.	Fees for the renewal of a lascar's certificate	3.00
3	Fees for the renewal of Master's Engine Driver's or Syrang's Certificate which has lapsed	11.00
4.	Fees for the renewal of a lascar's certificate which has lapsed	5.00";

(5) under the heading "(E) Miscellaneous Fees" for items 1 and 2, the following shall be substituted, namely:—

		Rs. Ps.
"1.	Issue of duplicate of licence or certificate	2.00
2.	Painting (numbering) ch arge or repainting charge	0.50";

10. In form O, for the words, letters, figure and brackets, "Fees Rs. 2 (Rupees two)", the words, letters, figure and brackets "Fees Rs. 5 (Rupees five)" shall be substituted.

These amendments shall come into force from 1st October 1975.

By order of the Governor,

G. Gopalakrishna Pillai,
Secretary,
Water & Power Department.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1975.

Government of Kerala
1975

Reg. No. KL/TV/12.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XX] Trivandrum, Saturday, 2nd August 1975 / 11th Sravana 1897 [No. 430

ERRATUM TO 9 (5) NOTIFICATION

BLOCK 28, KARUNAGAPALLY UNIT

No. A4. 1102/74. *26th July 1975.*

The schedule in the notification under Section 9 (5) of the K. L. A. Act published by the Special Tahsildar for L. A. (N.H.), Karunagapally at page 1 of the Gazette Extraordinary No. 279 dated 12-3-1974 vide reference No. 795/73 dated 4-3-1974 may be *read* as corrected below:—

കരുനാഗപ്പള്ളി നാഷണൽ ഹൈവേ പൊന്നുംവില സ്പെഷ്യൽ തഹസീൽദാർ 4-3-1974-ലെ A. 795/73-ാം നമ്പരായി 12-3-1974-ലെ 279-ാം നമ്പർ അസാധാരണ ഗസററിൽ പ്രസിദ്ധപ്പെടുത്തിയിരുന്ന വിജ്ഞാപനത്തിലെ വസ്തുവിവരപ്പട്ടിക കീഴ്ക്കാണും പ്രകാരം തിരുത്തിവായിക്കേണ്ടതാണ്:

For *Survey No.*	*Read* *Survey No.*
9890/4-1.	9899/4-1.

Quilon.

P. GOPALAKRISHNAN,
Special Tahsildar for L. A. (N.H.),
Quilon.

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33/2697/MC.

Reg. No. KL|TV|12.

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1975

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XX] **Trivandrum, Saturday,** **2nd August 1975** / **11th Sravana 1897** **[No. 431**

GOVERNMENT OF KERALA

Home (SS) Department

ORDER

No. 59466|SS1|74|Home. *Dated, Trivandrum, 1st August 1975.*

S. R. O. No. 669|75.—Under section 5 of Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (Central Act 52 of 1974) the Government of Kerala hereby order that K. S. Hassankutty detained under section 3 (1) of the said Act shall be removed from the Central Prison, Cannanore to the Central Prison, Trivandrum immediately.

By order of the Governor,

S. NARAYANASWAMY,

Special Secretary to Government.

Explanatory Note

It is considered necessary to remove the detenu from the Central Prison, Cannanore to the Central Prison, Trivandrum which is the place notified for detaining persons under Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

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Government of Kerala
1975

Reg. No. KL/TV/12.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XX] Trivandrum, Saturday, 2nd August 1975 / 11th Sravana 1897 [No. 432

GOVERNMENT OF KERALA

Home (SS) Department

NOTIFICATION

No. 29936/SS1/75/Home. *Dated, Trivandrum, 2nd August 1975.*

In exercise of the powers conferred by sub-section (2) of section 34 of the Defence of India Act, 1971 (Central Act 42 of 1971), the Government of Kerala hereby make the following amendment to the Notification No. 61495|SS1|73|Home dated the 7th January, 1974, and published in Gazette Extraordinary No. 31 dated the 9th January 1974, namely:—

AMENDMENT

In the said Notification for the words and brackets, "Direction of Printing and Stationery (Printing)" the words "Superintendent, Government Presses" shall be substituted.

By order of the Governor,

S. NARAYANASWAMY,

Special Secretary to Government.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1975.

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Reg. No. KL/TV/12

Government of Kerala
1975

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XX] Trivandrum, Saturday, 2nd August 1975 / 11th Sravana 1897 [No. 433

GOVERNMENT OF KERALA

Agriculture (Forest Special) Department

NOTIFICATION

G.O. (P) No. 225/75. *Dated, Trivandrum, 1st August 1975.*

S. R. O. No. 670/75.—Under Section 3 of the Kerala Restriction on Cutting and Destruction of Valuable Trees Act, 1974 (7 of 1974), the Government of Kerala hereby appoint the Divisional Forest Officers in charge of the Special Divisions to be authorised officers for the purpose of the said Act within their respective jurisdictions.

By order of the Governor,

T. R. SUKUMARAN NAIR,

Additional Secretary.

33/2702/MC

Explanatory Note

(This does not form part of the Notification but intended to indicate its general purport).

As per Section 3 of the Kerala Restriction on Cutting and Destruction of Valuable Trees Act, 1974, Government may by Notification in the Gazette appoint such officers as they think fit to be authorised officers for the purpose of the Act. Government have already appointed the Divisional Forest Officers in charge of the Territorial Divisions as authorised officers within their jurisdiction. Now Government have decided that all the Special Divisional Forest Officers may also be appointed as authorised officers for the purpose of the Act. This Notification is intended to achieve this purpose.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1975.

Reg. No. KL/TV/12.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XX] Trivandrum, Saturday, 2nd August 1975 / 11th Sravana 1897 [No 435

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 5317-LA4A/75. *Dated, Trivandrum, 2nd August 1975.*

The Kerala Irrigation Bill, 1975 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding delegated legislation is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. PRASANNAN,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM. 1975.

33/2704/MC.

THE KERALA IRRIGATION BILL, 1975

A

BILL

to consolidate and amend the law relating to the construction of irrigation works, the conservation and distribution of water for purposes of irrigation and the levy of irrigation cess on lands benefited by irrigation works, in the State of Kerala.

Preamble.—WHEREAS it is expedient to consolidate and amend the law relating to the construction of irrigation works, the conservation and distribution of water for purposes of irrigation and the levy of irrigation cess on lands benefited by irrigation works, in the State of Kerala;

BE it enacted in the Twenty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Irrigation Act, 1975.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint. Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) "Collector" means the Collector of a district and includes any officer appointed by the Government to exercise all or any of the powers or perform all or any of the functions of a Collector under this Act;

(2) "construction", with reference to an irrigation work, includes improvement, extension, repair and maintenance of that irrigation work;

(3) "field bothy" means a channel which runs from an outlet in a Government channel or canal and which conveys or distributes water to blocks of land not exceeding ten hectares in extent;

(4) "irrigation" with its grammatical variations includes "drainage" with its corresponding variations;

(5) "Irrigation Officer" means an officer appointed by the Government to perform all or any of the functions of an Irrigation Officer under this Act;

(6) "irrigation work" includes—

(a) all canals, channels, reservoirs and tanks, tube-wells and filter points which are intended or which may be used for the supply, collection, storage or retention of water for agricultural purposes;

(b) all works, embankments, structures, and supply and escape channels connected with such canals, channels, reservoirs or tanks and spouts installed to supply water to any land;

(c) all water-courses which are supplied with water from such canals, channels, reservoirs, tanks or spouts;

(d) all drainage works, that is to say, canals, channels, escape channels from a canal, channel, reservoir or tank, dams, weirs, embankments, sluices, groynes, field bothies and other works for the protection or benefit of agricultural lands or for the reclamation or dewatering of kole lands kayal lands, kari lands or such other lands;

(e) all works intended for preventing or regulating the entry of salt water into agricultural lands;

(f) all lands occupied by the Government or a local authority for the purposes of such canals, channels, reservoirs or tanks and all buildings, machinery, fences, gates and other erections upon such lands; and

(g) any other work which the Government may declare, by notification in the Gazette, to be an irrigation work;

(7) "lift irrigation work" means an irrigation work by which water is supplied or drained for agricultural purposes with the aid of pumpsets or other mechanical devices;

(8) "local authority" means a municipal Corporation or a municipal council or a township committee or a panchayat or any other authority notified by the Government in the Gazette to be a local authority for the purposes of this Act;

(9) "major irrigation work" includes all irrigation works irrigating or useful for the drainage or protection of an extent of over two hundred hectares of lands but shall not include a lift irrigation work;

(10) "majority of proprietors" means the proprietors of more than two-thirds of the extent of lands benefited by an irrigation work;

(11) "minor irrigation work" includes all irrigation works other than major, petty and lift irrigation works;

(12) "permit" means a permit issued under this Act;

(13) "petty irrigation work" includes all irrigation works irrigating or useful for the drainage or protection of an extent of not more than five hectares of land, but shall not include a lift irrigation work;

(14) "prescribed" means prescribed by rules made under this Act;

(15) "proprietor", in relation to a land, means the owner of that land and includes the cultivator or person in actual possession of such land;

(16) "Punja Special Officer" means an officer appointed by the Government to exercise the powers and discharge the duties of the Punja Special Officer under this Act;

(17) "State" means the State of Kerala;

(18) "Tahsildar", in relation to any land, means the Tahsildar of the taluk in which that land is situate;

(19) "water course" means a river, stream, channel, lake or natural collection of water and includes any tributary or branch of any river, stream or channel.

CHAPTER II

Conservation of Water in Water Courses

3. *Water in water courses to be Government property.*—Notwithstanding anything to the contrary contained in the Kerala Panchayats Act, 1960, (32 of 1960) or in any other law for the time being in force, or in any custom or usage, all the water in any water course in the State shall be the property of the Government and the Government shall be entitled to conserve and regulate the use of all such water for the purpose of irrigation or for any other purpose.

4. *Prohibition of abstraction of water from water courses.*—(1) No person shall abstract water from a water course for any industrial purpose except with the permission of the Collector within whose jurisdiction such abstraction is to be made and subject to such terms and conditions and subject to the payment of such fees, as may be prescribed.

(2) Save as provided in this Act, no person shall abstract water for any purpose by the installation of pump sets or other electrical devices for pumping water from a water course except with the permission of the Collector within whose jurisdiction such pump sets or other devices for abstraction of water are installed and subject to such terms and conditions and subject to the payment of such fees, as may be prescribed.

(3) If any person abstracts water from a water course in violation of sub-section (1) or sub-section (2), the Collector or any person authorised by him in that behalf shall have the power to enter any property, place or premises in which any construction is made or any pump set or other electrical device is installed for the abstraction of the water and remove or cause to be removed such construction or pump set or other device.

(4) The Collector or the person authorised under sub-section (3) may also confiscate any pump set or other electrical device if he is satisfied that such confiscation is necessary for the prevention of the abstraction of water.

(5) Every person authorised under sub-section (3) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

5. *Prohibition of construction of reservoirs, anicuts, etc.*—(1) No person shall construct any reservoir or anicut or weir or any like structure in or across any water course for the purpose of diverting water therefrom except with the previous sanction of the Government or such other authority as may be authorised by the Government in that behalf and subject to such terms and conditions as the Government or such authority may impose.

(2) Where any reservoir or anicut or weir or any like structure is constructed in or across a water-course in violation of sub-section (1), the Collector or the authority authorised by the Government under sub-section(1) shall have the power to cause such structure to be removed and to recover the cost of such removal from the person or persons responsible for such construction.

(3) Any amount recoverable under sub-section (2) may be recovered under the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), as if it were an arrears of public revenue due on land.

6. *Prohibition of construction of wells in notified areas.*—(1) Where the Government are of the opinion that in the interests of proper irrigation from any irrigation work constructed or proposed to be constructed, it is necessary to control the construction of wells in any area or areas, the Government may, by notification in the Gazette, specify such area or areas.

(2) Where a notification is issued under sub-section (1), no person shall, within the area or areas specified in the notification, construct any well except with the previous sanction of the Government or any other authority authorised by the Government in that behalf and subject to such terms and conditions as the Government or such authority may impose.

CHAPTER III

Construction of Irrigation Works and Their Classification

7. *Construction of Irrigation works by Government.*—(1) It shall be lawful for the Government, whenever they find it necessary to do so, to construct on any land belonging to them or vested in a local authority or acquired by them for the purpose, an irrigation work of any kind:

Provided that an irrigation work shall not be constructed on any land vested in a local authority without the previous permission of that local authority.

(2) Where the Government consider that an irrigation work constructed by them should be commissioned partly or fully, the Government shall publish in the Gazette a notification in that behalf containing such particulars as may be prescribed.

8. *Consequences of construction of irrigation works.*—Whenever the Government construct an irrigation work for utilising the water in a water-course,—

(a) the Government shall be entitled to regulate, utilise and distribute all the water in such water course and all the tributaries and branches thereof in any manner they think fit, notwithstanding that such regulation, utilisation or distribution may interfere with the right of any person or persons to take water from such water course for the purpose of irrigating his or their lands or for any other purpose;

(b) it shall be lawful for the Government to lead the water in such water course for the purpose of irrigation through any other water course with which it is or may be connected, although the bed of either watercourse may not belong to them;

(c) no person shall, without the sanction of the Collector or any officer authorised by him in that behalf do anything which obstructs, interferes with, diminishes or is likely to obstruct, interfere with or diminish the flow of water in such watercourse or in any other water-course with which it is or may be connected;

(d) no person shall use water for any purpose other than domestic purpose from any irrigation work owned or controlled or maintained by the Government except under and in accordance with the terms and conditions of a permit issued by such authority as may be prescribed.

9. *Payment of amount for damage, etc.*—(1) Any person who by reason of the construction of an irrigation work by the Government or the exercise of the powers conferred on the Government by or under this Act suffers material damage on account of the deprivation or infringement of the riparian right to use water from a water-course for the purpose of irrigating his lands or for any other purpose shall be paid an amount of money for such damage:

Provided that no amount shall be payable under this sub-section to a person who has not exercised his riparian right for a period of five years immediately preceding the commencement of this Act.

(2) The amount payable under sub-section (1) shall be assessed,—

(a) in cases where water was being used for the purpose of irrigating land, at five times the reduction in the net annual profits from the land caused or likely to be caused by such deprivation or infringement;

(b) in cases where water was being used for any other purpose, at three times the net annual loss sufffered by such deprivation or infringement.

(3) Every claim under this section shall be preferred to the Collector within whose jurisdiction the property benefited by the exercise of the riparian right is situate.

(4) The Collector or any other officer authorised by the Collector in that behalf shall enquire into all claims preferred under sub-section (3).

(5) After such inquiry and after giving the claimant an opportunity of being heard, the Collector shall by order determine the amount, if any, to be paid to the claimant.

10. *Bar to claims.*—No claim under section 9 shall be entertained after the expiration of one year from the date on which the deprivation or infringement referred to in sub-section (1) of that section commenced.

Explanation.—Where such deprivation or infringement takes place during a period comprising of more than one day, the last day of that period shall be deemed to be the date on which the deprivation or infringement commenced.

11. *Appeal.*—Any person aggrieved by an order of the Collector under sub-section (5) of section 9 may within ninety days from the date of communication of the order to him, prefer an appeal to the Board of Revenue and the decision of the Board of Revenue thereon shall be final.

12. *Entrustment of irrigation works.*—(1) The Government may, if it appears to them necessary to do so, entrust the construction or maintenance of any irrigation work, other than a petty irrigation work to any local authority or other authority and may at any time resume such work.

(2) The entrustment under sub-section (1) may be subject to such conditions as the Government may decide.

(3) The Government may entrust the maintenance of any lift irrigation work to a co-operative society of farmers benefited by such work at the cost of such society and subject to such terms and conditions as may be prescribed.

13. *Construction of petty irrigation works.*—Save as otherwise provided in this Act, the construction and maintenance of all petty irrigation works within the limits of a local authority shall devolve on that local authority.

CHAPTER IV

Construction and Maintenance of Field Bothies

14. *Proprietors to construct field bothies.*—The construction and maintenance of field bothies and the conveyance of water to any block of land not exceeding ten hectares in extent shall be the responsibility of the proprietors of the lands comprised in such blocks.

15. *On failure of proprietors, Government to construct.*—(1) If field bothies are not constructed by the proprietors for taking water from Government canals or channels, the Irrigation Officer, if he is satisfied that the construction of field bothies is necessary for proper irrigation of the lands of such proprietors shall by notice require the concerned proprietors to construct field bothies within such time and in such manner as may be specified in the notice.

(2) If the proprietors fail to construct field bothies in their lands as required by the notice under sub-section (1) it shall be lawful for the Irrigation Officer to construct field bothies in their lands or lands acquired for the purpose

16. *Procedure for speedy construction of field bothies by Government.*—(1) The Irrigation Officer shall determine suitable alignment for field bothies, shall mark out the land which, in his opinion, is necessary for the construction thereof and shall forthwith publish a notification in the prescribed form by affixture on the notice board in his office that such land has been so marked out.

(2) The Irrigation Officer shall also send a copy of the notification under sub-section (1) to the Tahsildar and the Collector within whose jurisdiction the land necessary for the construction of the field bothy is situate for publication in every village in which such land is situate.

(3) On receipt of a copy of the notification under sub-section (1)., the Collector shall also issue notices to the proprietors of the land mentioned in the notification to show cause why such land should not be acquired for the field bothy and after giving them an opportunity of being heard, if satisfied thatsuch land is required for the field bothy, proceed to acquire and take possession of such land under the provisions of the Kerala Land Acquisition Act, 1961.

(4) Notwithstanding anything contained in the Kerala Land Acquisition Act, 1961, the acquisition of any land for the purpose of constructing a field bothy under this section shall be deemed to be for a public purpose.

(5) On possession of the land being taken under the provisions of the Kerala Land Acquisition Act, 1961, the Irrigation Officer shall fix the boundary marks and proceed to construct the field bothy.

17. *Cost of construction to be recovered from benefited proprietors.*—Where any field bothy is constructed by the Government, the cost of construction of such field bothy may be recovered from the proprietors of the lands benefited by the field bothy in such proportion and in such manner as may be prescribed.

Explanation.—For the purposes of this sub-section, the expression "cost of construction", in relation to a field bothy, shall include the cost of the land acquired for the construction of that field bothy.

18. *Maintenance of field bothies.*—(1) The proprietors of the lands benefited by a field bothy shall be bound to maintain such field bothy in a fit state of repair for the conveyance of water.

(2) If such proprietors fail to fulfil the obligation imposed upon them by sub-section (1), the Irrigation Officer may by notice, require them, by notice, to execute the necessary repairs within a period to be specified in such notice, and in the event of failure may execute the same, and all expenses incurred in the execution of such repair shall be recovered from the proprietors in such proportion and in such manner as may be prescribed.

CHAPTER V

Issue of Permits and Levy of Irrigation Cess

19. *Publication of statement showing lands benefited.*—(1) As soon as may be after the publication of a notification under sub-section (2) of section 7 in respect of any irrigation work, the Irrigation Officer shall prepare a statement in the prescribed form showing the lands benefited or capable of being benefited by such irrigation work.

(2) In the case of an irrigation work commissioned partly or fully before the commencement of this Act or acquired partly or fully by the Government before such commencement the Irrigation Officer shall, as soon as may be after such commencement, prepare in the prescribed form a statement of the lands benefited or capable of being benefited by such irrigation work.

(3) The Irrigation Officer shall send a copy of the statement prepared under sub-section (1) or sub-section (2) to the Tahsildar of the taluk in which the lands mentioned in the statement are situate, and thereupon the Tahsildar shall cause the statement to be published in the Taluk Office and the concerned village offices along with a public notice requiring the proprietors of the lands shown as benefited or capable of being benefited to file objections, if any, regarding the inclusion of such lands in the statement to the Tahsildar within such time as may be specified in the notice.

(4) The notice referred to in sub-section (3) shall also be served on the proprietors of the lands included in the statement.

(5) The objections by a proprietor in pursuance of a notice published under sub-section (3) or served under section (4) shall be confined to any one or more of the following grounds, namely:—

(a) that his land or any portion thereof is not benefited or capable of being benefited by the irrigation work;

(b) that he is not the proprietor of the land;

(c) that the area or any like particulars noted in the statement is wrong.

(6) The Tahsildar shall consider the objections and after holding such inquiry as he deems necessary and giving the objector an opportunity of being heard, make an order either rejecting the objectings or excluding the land or portions thereof from the statement or making other necessary modifications therein.

(7) An order passed under sub-section (6) shall be communicated to the objector in such manner as may be prescribed.

(8) Any person aggrieved by an order made under sub-section (6) may appeal to the Collector within sixty days from the date of the order, and the decision of the Collector thereon shall be final.

Explanation.—A land shall be deemed to be "capable of being benefited" irrespective of the non-enjoyment of the benefit, if such non-enjoyment is solely due to any action or inaction on the part of the proprietor of that land.

20. *Issue of permits.*—(1) Subject to such modifications as may be made under sub-section (6) or sub-section (8) of section 19, in the statement prepared under sub-section (1) or sub-section (2) of that section, permits shall be issued to the proprietors of all lands included in the said statement.

(2) The permits shall be in such form and shall be subject to such conditions as may be prescribed and shall be issued by the Tahsildar.

(3) Every permit shall be served on or tendered to the proprietor of each land in respect of which it is issued, in such manner as may be prescribed

(4) A proprietor who has been served with a permit may, within fifteen days of the date of service, apply to the prescribed authority for the cancellation or modification of the permit on the ground that the amount of water cess or any other particulars shown in the permit is wrong.

(5) On receipt of an application under sub-section (4), the prescribed authority, after such inquiry as it may think fit and giving the proprietor an opportunity of being heard, may, by order in writing, cancel or modify or refuse to cancel or modify the permit.

(6) Any person aggrieved by an order of the prescribed authority under sub-section (5) may, within fifteen days from the date on which the order has been served on him, appeal to the Collector, and the Collector may, after giving him an opportunity of being heard, pass such order on the appeal as he thinks fit.

(7) An order of the Collector under sub-section (6) shall be final.

(8) A proprietor shall not be entitled to question the permit issued to him except in the manner provided for in sub-sections (4) and (6).

(9) Where a permit has not been issued to a proprietor entitled thereto, he may apply to the Tahsildar (prescribed authority) within such time as may be prescribed for the issue of the permit, and the Tahsildar (prescribed authority) may, after such inquiry as he may think fit, issue the permit or by order in writing reject the application for the issue of the permit.

21. *Cancellation or modification of permit.*—Any authority empowered by the Government in this behalf may, at any time, for reasons to be recorded in writing, by order, cancel or modify a permit issued under section 20:

Provided that no such order shall be passed without giving the proprietor who may be affected by the order, an opportunity of being heard.

22. *Duration of permit.*—Every permit issued under section 20, with such modifications, if any, as may be made therein under that section or section 21

shall, unless cancelled under section 21, remain in force for a period of five years from the date of issue of the permit.

23. *Levy of water cess by Government.*—(1) The Government shall be entitled to levy an annual water cess on all lands in respect of which permits have been issued under section 20, so long as such permits are in force.

(2) The water cess leviable under sub-section (1), in respect of a major irrigation work, shall be at such rates as may be fixed by the Government, not exceeding the rates specified in the Schedule.

(3) In the case of lands benefited by a minor irrigation work, the rates of water cess shall be one-half of the rates fixed under sub-section (2).

(4) In the case of lands benefited by a lift irrigation work, the rates of water cess shall be double the rates fixed under sub-section (2).

(5) Subject to the maximum rates referred to in sub-sections (2), (3) and (4), the Government may revise the rates of water cess every five years when fresh permits are issued.

(6) When any land in respect of which water cess is levied is transferred, the transferor and the transferee shall give notice of the transfer to the Collector who shall make necessary modifications in the permit.

(7) Arrears of water cess leviable under this section shall bear interest at the rate of five per cent per annum.

(8) Every person to whom a permit has been issued under section 20 shall, so long as the permit is in force, be liable to pay every year the water cess shown in the permit at the specified time without any separate demand for the payment of the cess.

24. *Exemption from payment of water cess.*—Where there has been a substantial failure of crops in any area, the Government may, notwithstanding anything contained in this Act, by notification in the Gazette, exempt the proprietors of the lands in that area from the payment of the whole or any portion of the water cess for such period as they may think fit.

Explanation.—For the purposes of this Section, not less than fifty per cent failure shall be deemed to be substantial failure.

25. *Levy of water cess by local authority.*—A local authority may, with the previous sanction of the Government, levy an annual water cess at such rates not exceeding the rates for minor irrigation works, on all lands benefited by a petty irrigation work.

26. *Water cess recoverable as arrears of public revenue.*—The amount of water cess due on any land under this Act shall be deemed to be public revenue due on that land, and the land, the buildings upon it and its products shall be regarded as the security for the water cess.

CHAPTER VI

Obtaining Materials in Emergencies

27. *Impressment of materials for urgent works of repair, etc.*—(1) Whenever it appears to an Irrigation Officer that unless some work or repair is immediately executed, any irrigation work would sustain such serious damage as to cause sudden and extensive public injury, such officer or any other person authorised by him in that behalf may enter upon or into any immovable property in the neighbourhood of any such irrigation work and take possession of, appropriate and remove any trees, timber, bamboos, mats, ropes, straw, earth, stones or other materials found in or upon such property, and use the same for the purpose of such work or repair.

(2) The Irrigation Officer or other person authorised by him who appropriates and removes any materials under sub-section (1) shall prepare an inventory thereof and keep it as record with his signature affixed thereto.

(3) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

28. *Payment for Materials taken.*—All persons whose materials may be taken under section 27 shall, as soon as may be reasonably practicable and in any case within fifteen days from the date on which the work or repair was completed, be paid by the Irrigation Officer for such materials at twenty-five percent in excess of their prevailing market rate and in case of dispute as to the prevailing market rate, the Irrigation Officer shall at once refer the dispute to the decision of the District Collector and the decision of the District Collector on such dispute shall be final.

29. *Payment for damage in taking materials.*—Whenever as a result of the removal under section 27 of any trees, timber, bamboos, earth, stone or other materials, any other damage results directly to any person, the Irrigation Officer shall pay or tender payment for such damage, and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the District Collector and the decision of the District Collector on such dispute shall be final.

CHAPTER VII

Regulation of Water Supply

30. *Distribution of water from Irrigation works.*—(1) The distribution of water from all irrigation works constructed or maintained wholly or partly at the cost of the Government shall be regulated by such rules or orders as may be made or issued by the Government from time to time.

(2) The distribution of water from irrigation works constructed or maintained at the cost of a local authority shall be regulated by such rules as may be made by that local authority.

CHAPTER VIII

Execution of Works by Joint Labour

31. *Definitions.*—In this Chapter, unless the context otherwise requires,—

(a) "Padasekharam" means collection of paddy fields contiguously situated, and owned by one or more persons;

(b) "work" includes the putting up of ring bunds and drainage of water.

32. *Procedure on failure to contribute cost or labour for work to be done by joint labour.*—(1) Whenever, by local custom or for other good reason, any work connected with irrigation or flood control is to be done by the joint labour or cost of the proprietors of all the lands likely to benefited by such work, if any such proprietor fails or neglects to do his share of the work or contribute his share of the cost or labour, it shall be lawful for the Collector, the Punja Special Officer or any other officer authorised by the Government in that behalf, on the application of one or more of the proprietors interested in such work or injured or likely to be injured by such failure or neglect, to investigate the matter and pass such order as he deems fit, and he may by such order also direct the defaulting proprietor to execute any portion of the work or pay any portion of the cost of the work.

(2) If an order under sub-section (1) directs that the defaulting proprietor shall execute a portion of the work, it shall specify the portion of the work to be executed, the time within which it should be done, and the estimate of the cost of such work prepared in such manner as may be prescribed.

(3) On the defaulting proprietor refusing or failing to execute such work within the time fixed in the order, the work may be executed under the order of the Collector, the Punja Special Officer or such other officer authorised as aforesaid and the cost thereof may be recovered from such defaulter.

33. *Dewatering, etc., of padasekharam.*—(1) Whenever the majority of the proprietors of a padasekharam apply to the Collector, the Punja Special Officer or any other Officer authorised by the Government in that behalf, to arrange for dewatering that padasekharam for the purpose of paddy cultivation, it shall be lawful for the Collector, the Punja Special Officer or such other Officer to arrange the dewatering of such padasekharam and to recover the cost thereof from all the proprietors.

(2) The Collector, the Punja Special Officer or other officer arranging the dewatering of any padasekharam under sub-section (1) or any person or persons authorised by him to undertake such dewatering work shall, notwithstanding anything contained in any other law for the time being in force, have the right to enter upon any field in that padasekharam and install any machinery for the purpose of such dewatering and to execute any temporary work incidental thereof.

(3) When any portion of the bund in any padasekharam has not been constructed or repaired properly, it shall be lawful for the Collector, the Punja Special Officer or any other officer authorised by the Government in that behalf, to carry out the construction or repair and to recover the cost thereof from the proprietors liable to carry out such construction or repair.

(4) Whenever the cultivation in any padasekharam or in any field in any padasekharam is likely to be affected due to want of proper irrigation. and such want is caused by any obstruction or damage to or other wilful act or omission in respect of an irrigation work by any person, the Collector, the Punja Special Officer or any other Officer authorised by the Government in that behalf, shall have power to arrange the execution of any temporary work as is necessary to irrigate the padasekharam or the field, as the case may be.

(5) The Collector, the Punja Special Officer or other Officer arranging any temporary work under sub-section (4) or any person or persons authorised by such officer to execute such work shall, notwithstanding anything contained in any other law for the time being in force, have power to enter upon any land and to do such work.

(6) The cost incurred for the execution of any temporary work under sub-section (4) shall be recoverable from the person, if any, responsible for the obstruction, damage, wilful act or omission, as arrears of public revenue due on land.

34. *Work not to be executed if majority of proprietors do not want the work to be executed.*—Notwithstanding anything contained in sections 32 and 33, the Collector, the Punja Special Officer or the Officer authorised by the Government shall not execute any work under the said sections, if the majority of the proprietors to be benefited by the work intimate in writing to the Collector, the Punja Special Officer, or the Officer authorised, that they do not want the work to be executed.

35. *Power of Collector, Punja Special Officer and Officer authorised under section 32 or 33.*—The Collector, the Punja Special Officer or the Officer authorised by the Government under section 32 or section 33, may exercise such powers and perform such duties as may be prescribed, for the collective benefit of the majority of the proprietors of lands in matters connected with irrigation.

36. *Appeal.*—Any person aggrieved by any order under this Chapter, of the Collector, the Punja Special Officer or any Officer authorised by the Government under section 32 or section 33 may, within such time as may be

prescribed, appeal against such order to the Government or to any office specially authorised by the Government in this behalf by notification in the Gazette, and the Government or such officer may thereupon pass such order as they or be think or thinks just and reasonable, after giving notice to the persons affected and hearing them if they appear.

37. *Revision.*—It shall be lawful for the Government to revise any order under this Chapter, of the Collector or the Punja Special Officer or the Officer authorised by the Government under section 32 or section 33, or any order of the Officer specially authorised under section 36, and to pass such orders as are, in their opinion, just and reasonable, after giving notice to the persons affected and hearing them if they appear.

38. *Recovery of money.*—Without prejudice to any other mode of recovery, any sum of money payable by the defaulting proprietors or other persons under the provisions of this Chapter may be recovered as arrears of public revenue due on land.

CHAPTER IX

Safeguards for Irrigation Works

39. *Interference with the functioning of cross drainage works.*—No person, except with the written permission of the Irrigation Officer, shall obstruct the proper functioning of the various cross drainage works, such as culverts, aqueducts, super-passages, syphons, weirs and allied works constructed for the safety of canals or channels.

40. *Obligation of owners in respect of works affecting safety of canals.*—(1) Every owner whose tank, well, pond or other reservoir is situated above any irrigation work, shall maintain the bunds and surplussing arrangements of such tank, well, pond or other reservoir in a safe and efficient condition.

(2) If, in the opinion of the Irrigation Officer, the bunds or surplussing arrangements referred to in sub-section (1) are not in a fit condition and are likely to endanger the irrigation work below, the owner concerned shall be served with a notice requiring him to bring such bunds or surplussing arrangements to a reasonably fit condition in such manner and within such time as may be specified in the notice.

(3) If the owner fails to comply with the notice under sub-section (2) or does repairs which in the opinion of the Irrigation Officer are unsatisfactory the Irrigation Officer may carry out the necessary repairs and the cost thereof shall be recovered from the owner as an arrear of public revenue due on land.

(4) Against any order of the Irrigation Officer under this section, an appeal shall lie within one month from the date of communication of the order, to the Collector, and the decision of the Collector on such appeal shall be final.

41. *Mining or quarrying near Irrigation works.*—No person shall conduct mining or quarrying operations requiring the use of explosives within a distance of one kilometre from the boundaries of an irrigation work without the written permission of the Irrigation Officer.

42. *Operation of sluice gates, etc.*—No person other than the Irrigation Officer or other person duly empowered by the Irrigation Officer in that behalf, shall have the right to operate a sluice gate, regulator or flood gate of a reservoir, canal or channel of an irrigation work owned, controlled or maintained by the Government.

43. *Fishing in irrigation works.*—No person shall have the right to fish in any irrigation work owned, maintained or controlled by the Government without the permission in writing of the Irrigation Officer and except in accordance with such terms and conditions and subject to the payment of such fees, as may be prescribed.

44. *Control of Navigation.*—The Government shall have power to prohibit by notification in the Gazette or, to regulate by licences or otherwise, navigation in any irrigation work.

45. *Letting out of water from canal prohibited.*—No person other than an Irrigation Officer or any Officer duly empowered by him in that behalf shall let out water from an irrigation work owned, controlled or maintained by the Government by cutting any bund or constructing a sluice or outlet or any other similar contrivance.

CHAPTER X

Penalties and Procedure

46. *Penalties.*—(1) Whoever does any act in contravention of sub-section (1) or sub-section (2) of section 4 or sub-section (1) of section 5, shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever does any act in contravention of clause (c) of sub-section (1) or sub-section (2) of section 8 or section 39 or section 41 or section 42 or section 43 or section 45 or any prohibition or regulation under section 44 shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(3) Whoever, without proper authority,—

(a) injures, alters, enlarges or obstructs any irrigation work; or

(b) interferes with, increases, or diminishes the supply of water from any irrigation work; or

(c) interferes with or alters the flow of water in any irrigation work so as to endanger, injure or render less useful any such work; or

(d) being entitled to the use of water from an irrigation work, causes or occasions waste of the water in such irrigation work or interferes with the authorised distribution of water therefrom or uses such water in any unauthorised manner; or

(e) corrupts or fouls the water of any irrigation work so as to render it less fit for the purpose for which it is ordinarily used; or

(f) destroys or moves or otherwise damages any level mark or water gauge fixed by the authority of a public servant; or

(g) causes or permits any animal to graze or be tethered upon the bank of any irrigation work, shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

(4) Whoever removes or injures any tree or bush or grass or other vegetation intended for the protection of any irrigation work shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

47. *Punishment for continuing offences.*—Where any offence under this Act is a continuing offence, the offender shall be punished with a further fine which may extend to one-half of the fine prescribed for the offence, for every day during which the offence continues.

48. *Enhanced penalty after previous conviction.*—If any person who has been convicted of any offence punishable under this Act is again found guilty of an offence involving a contravention of the same provision, he shall be punished on a subsequent conviction with imprisonment for a term which shall not be less than one month, but which may extend to six months and with fine which shall not be less than five hundred rupees, but which may extend to two thousand rupees.

49. *Cost of carrying out work to be recovered from convicted person.*—Where any person is convicted of an offence mentioned in section 46 the cost of removing the obstruction or interference or repairing the damage, alteration or injury to the irrigation work or of replacing or repairing the level mark incurred by the Irrigation Officer shall be recoverable from such person as arrears of public revenue due on land.

50. *Cognisance of Offences.*—(1) All offences under this Act except the offences mentioned in clauses 4 (1), 4 (2) and 43 shall be cognizable.]

(2) The Court shall not take cognizance of any offence other than an offence referred to in sub section (1) except on a complaint filed by the Irrigation Officer.

51. *Power to remove persons causing obstruction or damage to irrigation work.*—Any person in charge of, or employed in connection with, any irrigation work may—

(a) remove from the land or buildings comprised therein; or

(b) take into custody without a warrant, and without unnecessary delay make over to a police officer or in the absence of a police officer take or cause to be taken in custody to the nearest police station,

any person who, in his view,—

(i) wilfully damages, alters, enlarges or obstructs any irrigation work;

(ii) without proper authority interferes with the supply or flow of water, from or in any irrigation work so as to endanger, damage or render less useful such irrigation work.

52. *Payment of fine as reward to informant.*—(1) Whenever any fine is imposed on a person for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine or a sentence of which such fine forms a part, may direct that the whole or any part of such fine may be paid by way of reward to any person who gave information leading to the detection of such offence or to the conviction of the offender.

(2) If the fine is ordered to be paid as a reward by a court whose decision is subject to appeal or revision, the amount ordered to be paid shall not be paid until the period prescribed for presentation of the appeal or revision has elapsed or where an appeal or revision is preferred, till after the decision in the appeal or revision.

CHAPTER XII

Miscellaneous

53. *Offences by companies.*—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of,

any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

54. *Certain provisions of the Act to apply to petty Irrigation works.*—The Government may, whether at the request of the local authority or otherwise by notification in the Gazette, declare that any of the provisions of this Act or of the rules made thereunder shall be extended to and be in force in respect of any petty irrigation work constructed or maintained by a local authority subject to such alterations or modifications not affecting the substance, as may be necessary or proper for the purpose of adapting them to the petty irrigation work concerned.

55. *Acquisition of private irrigation works.*—(1) It shall be lawful for the Government to acquire any private irrigation work if in their opinion such acquisition is necessary for the proper irrigation of lands or for any other public purpose.

(2) The provisions of the Kerala Land Acquisition Act, 1961 (21 of 1962) shall apply in respect of an acquisition under sub-section (1).

(3) Where a private irrigation work is acquired by the Government, it shall, for the purposes of this Act, be deemed to be an irrigation work constructed by the Government at their cost.

56. *Power of entry, inspection, etc.*—(1) Any officer of the Revenue Department not below the rank of Revenue Inspector or of the Public Works Department not below the rank of Junior Engineer may, after such notice as may be prescribed, enter upon any land with or without assistants or workmen in order to make any investigation, inspection, test, examination, survey or measurement for the purpose of executing any work in connection with the construction of an irrigation work.

(2) Any officer of a local authority, not below the rank of Executive Officer, may, likewise, with or without assistants or workmen, enter upon any land in order to make any investigation, inspection, test, examination, survey or measurement for the purpose of executing any work in connection with a petty irrigation work or an irrigation work entrusted to it under section 12.

(3) Where any damage, has been caused to any irrigation work due to accident or otherwise or where there is an apprehended danger to any such work, any officer referred to in sub-section (1) or sub-section (2), as the

case may be, may, with or without assistants or workmen, enter upon any land adjacent to such work and execute the work necessary for the purpose of repairing such damage or preventing danger to the irrigation work.

(4) In every case in which action is taken under this section, the officer taking such action shall fix and pay in the prescribed manner compensation to the proprietor of the land concerned for all damage or loss caused to such proprietor.

(5) If the amount paid under sub-section (4) is not accepted, the officer shall refer the matter to the Collector who shall fix the amount of compensation in the manner. prescribed.

57. *Power to summon and examine witnesses, etc.*—(1) Any Officer empowered under this Act to conduct any inquiry shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavit; and

(d) any other matter which may be prescribed.

(2) Every inquiry under this Act shall lie deemed to be judicial proceeding for the purposes of sections 193 and 224 of the Indian Penal Code (Central Act 45 of 1860).

58. *Bar of certain proceedings, etc.*—(1) No suit, prosecution or other proceeding shall lie against the Government for any act done or purporting to be done under this Act.

(2) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government, for any act done or purporting to be done under this Act, without the previous sanction of the Government.

(3) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of the duties or the discharge of the functions imposed by or under this Act.

(4) In the case of an intended suit against any officer or servant of the Government under sub-section (2), the person intending to sue shall be bound to give the officer or servant, as the case may be, one month's notice at least of the intended suit with sufficient description of the cause of action, failing which such suit shall be dismissed.

(5) Save as otherwise expressly provided in this Act, no civil court shall entertain any suit instituted in respect of any matter to which this Act applies .

59. *Water cess for unathorised or wasteful use of water.*—(1) Any person being entitled to use water from any irrigation work causes or occasions waste of water and any person who unauthorisedly uses or takes water from any irrigation work to which this Act applies, shall be liable to pay, in addition to the penalties imposed by this Act, such water cess as the Collector may determine on the report of the Irrigation Officer, for the water wasted or used or taken unauthorisedly.

(2) Whoever abstracts or diverts water from a watercourse in violation of sub-section (1) or sub-section (2) of section 4 or sub-section (1) of section 5 shall be liable to pay, in addition to the penalties imposed by this Act, such amount of water cess as the Collector may determine, for the water so abstracted or diverted:

Provided that before imposing water cess under sub-section (1) or sub-section (2), the Collector shall cause to be served on the persons concerned a written notice specifying the proposed amount of water cess and give them an opportunity of being heard if any objection is raised in regard to the imposition of such water cess.

(3) Any person aggrieved by an order of the Collector under sub-section (1) or sub-section (2) may, if the Collector is not the District Collector, appeal to the District Collector against such order, and the decision of the District Collector on such appeal shall be final.

(4) The order of the Collector under sub-section (1) or sub-section (2) shall, subject to the provisions of sub-section (3), be final.

(5) Any amount due under this section shall be recoverable from the persons liable thereto as arrears of public revenue due on land.

60. *Recovery of cost of repairing damage when the offender is unascertainable.*—When the person causing any damage, alteration, enlargement or obstruction to any irrigation work without proper authority cannot, after such inquiry as the Collector may deem sufficient, be ascertained or identified, the Collector may, on a requisition from the Irrigation Officer, after giving not less than one month's notice to the proprietors of all lands benefited by the damage, alteration, enlargement or obstruction, as the case may be, and after hearing their representations, if any, recover from them, as an arrear of public revenue due on land, in such proportion as he thinks fit, the cost of repairing such damage, or of removing such alteration, enlargement or obstruction.

61. *Constitution of Irrigation Boards and their functions.*—(1) The Government may, by notification in the Gazette, constitute an Irrigation Board for any area or for any major irrigation work for advising the Government or their officers on matters relating to the regulation of the distribution of water from any irrigation work and on such other matters as may be specified in the notification.

(2) The Government may, by notification in the Gazette, dissolve any Board constituted under sub-section (1).

(3) An Irrigation Board shall consist of not less than five and not more than twenty members appointed by the Government:

Provided that the non-official members shall have majority in the Board.

(4) The term of office of a member of an Irrigation Board shall be three years.

62. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the delegation of the powers of the Government to the Board of Revenue, Collectors or other authorities;

(b) the provision of such appeals and revisions as may be found necessary in respect of the orders passed by any authority to whom powers may be delegated;

(c) regulating navigation in irrigation works, the grant of licences for such navigation and the levy of fees therefor;

(d) the cases in which and the officers to whom and the conditions subject to which orders and decisions given under any provision of this Act, in respect of which no appeal has been specifically provided in this Act shall be appealable;

(e) the persons by whom and the time, place or manner at or in which anything for the doing of which provision is made in this Act shall be done;

(f) the conduct of business at the meetings of the Irrigation Boards and the relation between two or more of such Boards;

(g) any other matter which has to be, or may be, prescribed under this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

63. *Saving of other laws.*—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law relating to any of the matters dealt with in this Act.

64. *Repeal.*—The Madras Irrigation Cess Act, 1865 (VII of 1865), the Madras Irrigation (Voluntary Cess) Act, 1942 (XIII of 1942), the Malabar Irrigation Works (Construction and Levy of Cess) Act, 1947 (VII of 1947) and the Madras Irrigation Tanks (Improvement) Act, 1949 (XIX of 1949), as in force in the Malabar district referred to in sub-section (2) of section 5 of the State Re-organisation Act, 1956 (Central Act 37 of 1956), the Travancore-Cochin Irrigation Act, 1956 (VII of 1956), except the provisions thereof which relate to betterment contribution, and the Kerala Irrigation Works (Execution by Joint Labour) Act, 1967 (20 of 1967), are hereby repealed.

65. *Validation.*—Notwithstanding the provisions of section 64—(a) the validity of any steps taken in connection with the construction of any irrigation work or of the levy of any irrigation cess made or hereafter to be made under any of the enactments repealed by section 64 shall not be called in question in any court of law on the ground that in sanctioning the construction of, or in constructing, the irrigation work benefiting the lands on which the cess was or is to be levied, the procedure laid down therefore as not followed or that the list of irrigation works was not published as required by any law then in force; and accordingly any such work started may be continued and completed, any such cess may be levied and recovered and any such cess already levied may be recovered, as if this Act had not been passed;

(b) any action taken for the acquisition of land for any irrigation work under section 22 of the Cochin Irrigation Act, VIII of 1111, repealed by the Travancore-Cochin Irrigation Act, 1956, (VII of 1956), may be continued from the stage at which it was pending at the commencement of this Act, and the validity of any action taken or order issued after the repeal of the said Cochin Irrigation Act and before the commencement of this Act in connection with such acquisition shall not be called in question in any court of law.

SCHEDULE

(*Vide* Clause 23)

Maximum rates of Irrigation Cess

1. For Single Crop—65 paise per Are.
2. For 2 Crops—Re. 1 per Are.
3. For 3 Crops—Re. 1 and paise 50 per Are.
4. For Sugarcane cultivation—Re. 1 per Are.

STATEMENT OF OBJECTS AND REASONS

At present the following enactments relating to irrigation are in force in the different parts of the State:—

(i) the Madras Irrigation Cess Act, 1865 (Madras Act VII of 1865);

(ii) the Madras Irrigation (Voluntary Cess) Act, 1942 (Madras Act XIII of 1942);

(iii) the Malabar Irrigation Works (Construction and Levy of Cess) Act, 1947 (Madras Act VII of 1947);

(iv) the Madras Irrigation Tanks (Improvement) Act, 1949 (Madras Act XIX of 1949);

(v) the Travancore-Cochin Irrigation Act, 1956 (T. C. Act VII of 1956); and

(vi) the Kerala Irrigation Works (Execution by Joint Labour) Act, 1967 (20 of 1967).

It is considered necessary to enact a uniform law on the subject applicable throughout the State. The Bill is intended for this purpose.

2. The main changes made from the provisions of the existing enactments are the following:—

(1) According to the provisions contained in the Kerala Panchayats Act, 1960, all public water courses, springs, reservoirs, tanks, cisterns, fountains etc., vest in the Panchayats. This right has to be taken over by Government in order to conserve and

properly regulate the use of such water. The Bill seeks to vest the rights on all public water courses in the Government.

(2) The existing Acts do not contain provision for the entrustment of the construction or maintenance of any irrigation work to a Co-operative Society or local authority. A good number of Lift Irrigation works are taken up by the Government. The responsibility for the maintenance of these Lift Irrigation works now devolve upon the Government. The annual cess collected from the Lift Irrigation works is not sufficient to maintain these works. According to the provisions in the Travancore-Cochin Irrigation Act, 1956, the maintenance of Lift Irrigation works cannot be entrusted to Co-operative societies. The Bill contains a provision enabling the Government to entrust Lift Irrigation works to Co-operative Societies for maintenance as well as management.

(3) According to the Travancore-Cochin Irrigation Act, 1956, a "No Objection Certificate" from the Revenue Divisional Officer or the Collector or the Government is required for taking up a minor irrigation work. Elaborate procedures are laid down in the Act for issue of "No Objection Certificate" and this entails considerable delay in executing minor irrigation works. For the speedy execution of minor irrigation works the requirement of "No Objection Certificate" is proposed to be dispensed with in the Bill.

(4) The effective functioning of an irrigation work mainly depends on the construction and proper maintenance of field bothies. The existing enactments do not contain any provision to compel the proprietors of lands within the ayacut of an irrigation work to construct and maintain necessary field bothies. The Bill contains provisions for the purpose.

(5) In view of the increase in the cost of construction and maintenance of irrigation works, it is considered necessary to empower the Government to levy a higher rate of water cess. Therefore, the maximum rates of water cess proposed in the Bill are higher than the maximum rates provided by or under the existing enactments.

FINANCIAL MEMORANDUM

It is expected that the provisions of the proposed legislation could be implemented by the existing staff and that no additional staff would be necessary. Therefore, the Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 1 seeks to empower the Government to bring the provisions of the Act into force on a single date or on different dates. Clause 2 (6) (g) seeks to empower the Government to declare any work other than those specified in the clause to be an irrigation work. Sub-clause (1) of clause 4 seeks to empower the Government to make rules specifying the terms and conditions subject to which water may be abstracted for any industrial purpose and the fees to be paid for such abstraction. Sub-clause (2) of clause 4 seeks to empower the Government to make similar rules in respect of abstraction of water by the installation of pump sets or other electrical devices for pumping water from a water course. Sub-clause (1) of clause 6 seeks to empower the Government to specify the area or areas in which construction of wells should be controlled. Sub-clause (2) of clause 7 seeks to empower the Government to publish a notification containing the prescribed particulars commissioning an irrigation work partly or fully. Clause 8 (d) seeks to empower the Government to prescribe the authority competent to issue permits for the use of water for any purpose other than domestic purpose from any irrigation work owned or controlled or maintained by the Government. Sub-clause (3) of clause 12 seeks to empower the Government to prescribe the terms and conditions subject to which the maintenance of any lift irrigation work may be entrusted to a Co-operative Society of farmers. Clause 17 empowers the Government to prescribe the proportion and manner in which the cost of construction of a field bothy may be recovered. Sub-clauses (1) and (2) of clause 19 seeks to empower the Government to prescribe the form in which the statements referred to in those sub-clauses are to be prepared by the irrigation officer. Sub-clauses (2) and (3) of clause 20 seeks to empower the Government to prescribe the form and conditions of permits and the manner in which permits are to be served or tendered. According to clause 21 any authority empowered by the Government may cancel or modify a permit. Sub-clause (2) of clause 23 seeks to empower the Government to fix the rates of water cess not exceeding the rates specified in the Schedule. Clause 25 seeks to empower local authorities to fix the rates of water cess for petty irrigation works not exceeding the rates for minor irrigation works. Clauses 32 and 33 seek to authorise officers to exercise the powers and perform the duties under those clauses. Clause 36 seeks to empower the Government to authorise officers to hear appeals from orders of the Collector, Punja Special Officer, etc. Clause 43 seeks to empower the Government to prescribe the terms and conditions subject to which permission may be given for fishing from

any irrigation work owned or controlled or maintained by the Government and the fees to be paid therefor. Under clause 44, Government have power to prohibit or regulate navigation in any irrigation work. Under clause 54, Government have power to declare that any of the provisions of the Act or of the rules made thereunder shall apply to petty irrigation works. Clause 61 seeks to empower the Government to constitute an Irrigation Board for any area, and to dissolve the Board.

2. Clause 62 seeks to empower the Government to make rules to carry out the purposes of the Act. Such rules may provide *inter alia* for the delegation of the powers of the Government to the Board of Revenue, Collectors or other authorities, the provision of such appeals and revisions as may be found necessary in respect of the orders passed by any authority to whom powers may be delegated, regulating navigation in irrigation works, the grant of licences for such navigation and the levy of fees therefor, the cases in which and the officers to whom and the conditions subject to which orders and decisions given under any provision of the Act, in respect of which no appeal has been specifically provided in the Act, shall be appealable and the conduct of business at the meetings of the Irrigation Boards and the relation between two or more of such Boards.

3. The matters in respect of which notifications or rules may be made are matters of procedure or detail or of an administrative nature necessary for the proper implementation of the proposed legislation. Further, the rules after they are made are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is thus of a normal character.

T. K. DIVAKARAN